

Procedural Safeguard Manual

For



South Carolina's Early Intervention System

MAY 2006

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INTRODUCTION

The South Carolina Department of Health and Environmental Control (DHEC) is the lead agency for BabyNet (BN) early intervention services for children age birth to three with developmental delays/disabilities, and their families. As such, DHEC is responsible for ensuring the implementation of procedural safeguards consistent with South Carolina law and Part C of the Individuals with Disabilities Education Act. These Procedural Safeguards are applicable to each South Carolina public agency and private provider involved in the provision of BN early intervention services and available to all families receiving BN services.

Part I, (Parental Participation in BabyNet), outlines procedures for prior notice; parental consent; primary language; opportunity to examine records; confidentiality and surrogate parents. Part II, (Formal Dispute Resolution), delineates steps for the investigation and resolution of complaints, impartial hearing procedures, and mediation. Part III, (Appendices), contains timelines, procedures, and forms used by the BabyNet Procedural Safeguards Officer.

DHEC is committed to maximizing family involvement in decision-making and maintaining the partnerships so critical to the success of the program. The BabyNet Procedural Safeguards Officer is available to answer questions about the Program and options available in the event of a dispute. Additionally, parents can work with their BabyNet service coordinator, providers, or the BabyNet System Manager in their district/region to resolve any concerns about services. DHEC highly recommends informal means to resolve service disagreements that may arise. However, a participating party may also request a complaint investigation, mediation, or a due process hearing.

I. PARENTAL PARTICIPATION IN BABYNET

A. PRIOR NOTICE (34 CFR 303.403)

1. Written prior notice must be given to the parents of a child eligible for BabyNet Services a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family.
2. The notice must list:
 - a. The action that is being proposed or refused;
 - b. The reasons for taking the action;
 - c. All procedural safeguards that are available;
 - d. The timelines and procedures for filing a complaint to contest the action.
3. The notice must be:
 - a. Written in language understandable to the general public; and
 - b. Provided in the parents' native language, unless it is clearly not feasible to do so. If the parent's native language or other mode of communication is not written, the public agency or designated service provider shall take steps to ensure that:
 - i. The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication;
 - ii. The parent understands the notice; and
 - iii. There is written evidence that the above requirements have been met.
 - c. If a parent is deaf or blind, or has no written language, the mode of communication must be that normally used by the parent (such as sign language, Braille, or oral communication).
 - d. A parent may at any time verbally or in writing informally raise concerns or questions about services, evaluations or other BabyNet actions to the Service Coordinator and the

Coordinator shall respond to these concerns and questions in a timely manner.

B. PARENTAL CONSENT (34 CFR 303.401, 303.404 and 303.405)

1. Consent Requirements:

- a. Written parental consent must be obtained before:
 - i. Conducting an initial evaluation and assessment of the child, and
 - ii. Initiating the provision of early intervention services.
- b. If parental consent is not given, or is withdrawn, the public agency shall make reasonable efforts to ensure that the parent:
 - i. Is fully aware of the nature of the evaluation and assessment or the services that would be available; and
 - ii. Understands that the child will not be able to receive the evaluation and assessment or the services unless consent is given.

The contents of the Individual Family Service Plan must be fully explained to the parents and informed written consent from the parents must be obtained prior to the provision of early intervention services described in the plan. If the parents do not provide consent with respect to a particular early intervention service or withdraw consent after first providing it, that service may not be provided. The early intervention services to which parental consent is obtained must be provided.

2. Consent means:

- a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication. Native language, where used with reference to persons of limited English proficiency, means the language or mode of communication normally used by the parent of a child eligible under this part;
- b. The parent understands and agrees in writing to the activity for which consent is sought. The consent describes that activity and lists the records (if any) that will be released and to whom; and

- c. The parent understands that the granting of consent is voluntary and may be revoked at any time.

3. Right to Decline Services:

The parents of a child eligible for BabyNet services may determine whether they, their child, or other family members will accept or decline any early intervention service offered by the BabyNet Program, and may decline such a service after first accepting it, without jeopardizing other early intervention services.

C. CONFIDENTIALITY OF INFORMATION AND ACCESS TO RECORDS (34 CFR 303.401, 303.460 and 300.560-576)

- 1. BabyNet ensures the confidentiality of any personally identifiable information collected, used or maintained, including the right of parents to written notice of and written consent of the exchange of information among agencies consistent with federal and state law.

2. Definitions:

- a. Personally identifiable means information that includes
 - i. the name of the child, the child's parent or the family member;
 - ii. The address of the child;
 - iii. A personal identifier, such as the child's or parent's social security number, or;
 - iv. A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
- b. "Destruction" means physical destruction or removal of personal identifiers from information so that information is no longer personally identifiable.
- c. "Educational records" means the type of records covered under the definition of education records in Part 99 of 34 CFR, the regulations implementing the Family Educational Rights and Privacy Act of 1974 (FERPA).
- d. "Participating agency" means any agency/institution, including service coordination and early intervention service providers

that collect, maintain, or use personally identifiable BabyNet educational information.

3. Parental Access to Records

- a. Each participating agency shall permit parents to inspect and review any early intervention records relating to their children that are collected, maintained, or used by the agency under Part C of IDEA. The agency shall comply with the request without unnecessary delay, and in no case, more than 45 calendar days after the request has been made. In addition, the agency shall provide access to records when requested prior to the IFSP meeting or dispute resolution related to the child's identification, evaluation, or placement, or provision of early intervention services of the child.
- b. The right to inspect and review records includes:
 - i. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
 - ii. The right to request that the agency provide copies of records containing the information, if failure to provide those copies would effectively prevent the parent from exercising their right to inspect/review records; and
 - iii. The right to have a representative of the parent inspect and review records with parental consent.
- c. An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state law governing termination of parental rights.
- d. Record of Access

Each participating agency shall keep a record of parties obtaining access to early intervention records collected, maintained or used under Part C of IDEA (except access by parents and authorized employees of the participating agency), including the name of the party, the date of access, and the purpose for which the party is authorized to use the record.
- e. Records on More Than One Child

If any early intervention record includes information on more than one child, parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

f. List of Types and Locations of Information

Each participating agency shall provide parents, on request, a list of the types and locations of early intervention records collected, maintained, or used by the agency.

g. Fees

i. A participating agency may charge fees for copies of records that are made for parents under BabyNet if the fee does not prevent the parents from exercising their right to inspect and review those records.

ii. A participating agency may not charge a fee to search for or to retrieve early intervention records.

h. Amendment of Records at Parent's Request

i. A parent, who believes information in early intervention records collected, maintained or used under Part C of IDEA is inaccurate or misleading or violates privacy or other rights of the child, may request the participating agency that maintains the information to amend the information.

ii. The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time after receipt of the request.

iii. If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of refusal and advise the parent of the right to a hearing.

4. Consent to Release Information

a. Written parental consent must be obtained before personally identifiable information is disclosed to anyone other than the officials of the participating agencies collecting or using information under this section, subject to ii below, or used for any purpose other than meeting the requirements under Part C of IDEA.

- b. An agency/institution subject to 34 CFR Part 99 shall not release information from the BabyNet record to participating agencies without parental consent unless authorized to do so under FERPA, 99.31 and state law.

5. Safeguards

- a. Each participating agency shall protect the confidentiality of personally identifiable information in accordance with state and federal law and DHEC's confidentiality and privacy policy.
- b. One official at each of the participating agencies shall assume responsibility for insuring confidentiality of personally identifiable information.
- c. All persons collecting or using personally identifiable information must receive training or instruction regarding state law, DHEC policy, and procedures of Part C of IDEA (34 CFR Part 300) and FERPA (34 CFR Part 99).

6. Enforcement

- a. DHEC/BabyNet shall collect and maintain information through its supervision and monitoring process, to insure all requirements governing the confidentiality of records, and information maintained under this part, are being implemented by participating agencies.
- b. Each participating agency will provide BabyNet with assurances that they will comply with the program specifications for grants/contracts, sub-grants, Memorandum of Agreements, and consultant contracts. Each agency must have policies and procedures that include the compilation, maintenance, access to and confidentiality of records in accordance with these policies.
- c. In the event compliance deficiencies are identified, DHEC/BabyNet will report the deficiency, in writing, to the applicable agency. This report will describe the unmet requirement leading to the deficiency, specify the action necessary to correct the deficiency, and establish a timeline for implementing the corrective action. If corrective action is not taken, and if further assistance from appropriate enforcement personnel is unsuccessful in remedying the deficiency, DHEC/BabyNet may terminate or not renew the grant/contract, sub-grant or consultant contract, depending on the seriousness of the findings. For State Agencies, failure to take corrective action may result in dispute resolution

proceeding under the BabyNet Interagency Memorandum of Agreement.

D. SURROGATE PARENTS (34 CFR 303.19 and 303.406)

1. A surrogate parent is appointed to fulfill certain duties of a parent under the BabyNet Program when:
 - a. No parent can be identified;
 - b. After reasonable efforts the whereabouts of the parent cannot be discovered; or
 - c. The child is a ward of the state pursuant to South Carolina state law;
 - d. The parent has given written authorization for BabyNet Central Office to appoint the surrogate parent.
2. The appointment of a surrogate parent may not be utilized to circumvent the procedures for gaining parental consent for eligibility determination, evaluations, assessments or any other early intervention process requiring consent.
3. To determine if a child is a ward of the state, the BabyNet Service Coordinator must obtain a copy of the court order granting DSS legal custody of the child. DSS cannot, however, act as the parent of the child for BabyNet purposes, since IDEA expressly requires that surrogate parents be named for children who are wards of the state. As long as the BN Service Coordinator has the court order, they are not required to determine the status of the parents prior to naming a surrogate parent.
4. If a court has appointed a person to be guardian or given legal custody to someone, a surrogate parent is not required. Documentation of guardianship or legal custody must be maintained in the BabyNet Record.
5. If it is determined that a surrogate parent is needed for a child receiving BabyNet services, the BabyNet Service Coordinator must complete the Assignment of Surrogate Parent form, attach required documentation, and forward it to BabyNet Central Office.
 - a. The BabyNet Service Coordinator shall:
 - i. Make a reasonable effort to locate the parent or guardian. Reasonable efforts include a combination of attempts that may include documented telephone calls, certified letters, visits to the parent's last known

address, and documented contacts with relatives, neighbors, and other agencies. Documentation of these attempts will be maintained in the child's BabyNet record.

- ii. Request appointment of a surrogate parent through BabyNet Central Office using the Assignment of Surrogate Parent form;
 - iii. Inform BabyNet Central Office when there is reason to believe that the surrogate parent is no longer eligible, has a conflict of interest, is not attending IFSP meetings, etc.
6. Surrogate parents shall be selected in ways permitted by South Carolina law.
7. Additionally, a person selected as a surrogate must:
- a. Be at least 18 years old;
 - b. Have no interest that conflicts with the interests of the child represented;
 - c. Have knowledge and skills that ensure adequate representation of child;
 - d. Not be an employee of any agency or person involved in providing BabyNet early intervention services to the child or family. A person who otherwise qualifies to be a surrogate parent under this section is not an employee solely because he or she is paid by a public agency to serve as a surrogate parent;
 - e. Preferably reside in the same geographic area as the child.

Appointment as a surrogate parent is limited to the BabyNet Program. Surrogate parents appointed for purposes of the BabyNet Program have no rights or responsibilities in other areas such as: care and maintenance; financial support of the child; custody of the child; foster home placement; or other matters that are not directly related to BabyNet early intervention services, unless otherwise required or authorized by law. A person whose role is a caregiver and whose contact is only incidental (e.g., babysitter, caretaker, child care worker) has not assumed the role or responsibility of a parent or guardian.

8. Surrogate Parent Responsibilities

- a. A surrogate parent will:
 - i. Visit the child and observe the child's development and environment;
 - ii. Attend the child's evaluations and assessments;
 - iii. Participate in the development of the child's IFSP;
 - iv. Participate in development of Annual IFSPs and reviews as appropriate;
 - v. Review the child's BabyNet record to become familiar with the child as needed;
 - vi. Exercise independent judgment in pursuing the child's interests within early intervention;
 - vii. Represent the child within the BabyNet Early Intervention System.

9. Surrogate Parent Rights under Babynet

- a. The surrogate parent has the right to:
 - i. Inspect, review, and obtain copies of all BabyNet records;
 - ii. File a complaint and obtain a due process hearing;
 - iii. Receive written notice of actions proposed by the IFSP team;
 - iv. Procedural safeguards including the right to request an evaluation of the child;
 - v. Confidentiality of identifiable information used or collected by the lead agency or Lead Service Coordinator;
 - vi. Receive written notices prior to any evaluation and changes in services;
 - vii. Represent the child in all matters relating to BabyNet's evaluation, assessment, and provision of services to the child.

- b. Upon termination of a surrogate, all BabyNet information in the possession of the former surrogate shall be immediately returned to the BabyNet Service Coordinator.
- 10. Termination of Surrogate Appointments
 - a. A surrogate parent appointment may be terminated when:
 - i. The child is no longer eligible for the BabyNet program;
 - ii. The surrogate parent is no longer willing to serve;
 - iii. The parent who was previously unknown or unavailable, is now known or available;
 - iv. Parent revokes consent given for a surrogate parent;
 - v. The interest of the surrogate conflicts with the interest of the child entrusted to the surrogate parent;
 - vi. When BabyNet has reason to believe that a surrogate parent is not representing the child or the surrogate parent has a conflict of interest;
 - vii. The surrogate parent is no longer eligible under the eligibility criteria set out in these guidelines;
 - viii. The surrogate parent has threatened the well being of the child;
 - ix. The surrogate parent has violated minimum standards of practice.
 - b. Termination of the appointment of a surrogate parent must be justified through documentation of inappropriate conduct such as absences from scheduled meetings, failure to complete trainings or learn about the child. If a surrogate parent wishes to stop serving, the surrogate parent should notify the BabyNet Service Coordinator in writing at least 15 days before terminating services as a surrogate parent.

II. COMPLAINT INVESTIGATION & RESOLUTION PROCEDURES (34 CFR 303.510- 303.512)

A. Definitions

- 1. Complaint: A complaint is a written signed statement of fact filed by an individual or organization alleging that the BabyNet Program has

violated state or federal law, or regulation. The alleged violation must have occurred not more than one year prior to the date the complaint is received by the BabyNet Program unless a longer period is reasonable because:

- a. The alleged violation continues for that child or other children; or
- b. The complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the BabyNet Procedural Safeguards Officer receives the complaint.

B. Complaint Filing Procedures

1. Complaints are filed with the BabyNet Procedural Safeguards Officer. BabyNet is responsible for investigating any complaint it receives including individual child complaints and those that are systemic in nature. No change in the provision of services may be made during the pendency of a complaint investigation, and that retaliation against the complainant is unlawful and may lead to other proceedings.

Note: No verbal complaints shall be accepted from an organization or individual other than a parent. If a parent wishes to file a complaint, it is the responsibility of the service coordinator to assist the parent, in the parent's primary language and/or mode of communication, to the maximum extent possible, to prepare the complaint in written form. If the parent prefers, they can request assistance from the BabyNet Procedural Safeguards Officer.

C. Complaint Investigation Procedures

1. During the investigation, the BabyNet Procedural Safeguards Officer:
 - a. Makes a determination if an on-site investigation is necessary, and conducts such an investigation.
 - b. Reviews all relevant information, including the results of any on-site investigation, pertinent written records and documents such as forms, reports and files, and any additional information provided by the party(s).
 - c. Conducts personal interviews with the complainant, the respondent(s) and any other relevant party, if necessary.
 - d. Contacts other individuals, including advocates or other parties, who may have important knowledge or information

relative to the complaint, or specialized expertise pertinent to the complaint, if necessary.

2. Additionally, the BabyNet Procedural Safeguards Officer will provide the parent or family with:
 - a. Notification of the opportunity to submit, within 3 business days of receipt of this notification, written or verbal information responsive to the allegations in the complaint.
 - b. A copy of Notice to the provider that failure to cooperate with any investigation shall subject the named party(s) to contract termination, cessation of payments, or other action.

D. Complaint Resolution and Implementation Procedures

1. Within 15 calendar days of receipt of the complaint, unless exceptional circumstances exist with respect to a particular complaint, the BabyNet Procedural Safeguards Officer shall issue a written determination to the complainant and the named party(s) which addresses each allegation in the complaint and contains:
 - a. Findings of fact and conclusions and the reasons for the BabyNet Procedural Safeguards Officer's final decision;
 - b. If needed, the BabyNet Procedural Safeguards Officer requires the named party(s) to develop and implement a plan of action outlining procedures for effective implementation of the final decision. If needed, technical assistance activities, negotiations, and corrective actions to achieve compliance;
 - c. A request and instructions for development and submission of detailed corrective action plan, if necessary, including specifying the date(s) by which corrective actions must be implemented; and
 - d. Remedies when a denial of necessary services occurred, including (as appropriate) the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family and appropriate future provision of services for all infants and toddlers with disabilities and their families.
2. If appropriate to the complaint, a copy of the decision shall be sent to the child's service coordinator. If applicable, the service coordinator shall modify the IFSP no later than five business days (based on approved agency calendar) after receipt of the written decision.

3. If any named party has not cooperated with the complaint investigation, and/or has taken retaliatory action against any complainant, the BabyNet Procedural Safeguards Officer shall also issue a finding of failure to cooperate, which outlines the specific nature of the failure to cooperate and describes the appropriate corrective action(s) which shall be taken, including but not limited to possible cancellation of contract, cessation of payment, disqualification as a service provider, and/or other remedial action(s).
4. Any BabyNet provider of early intervention services who, on the basis of an investigation pursuant to a complaint, is found to be disqualified to provide such services shall immediately receive written notification of cessation of services and cancellation of contract in accordance with contract procedures. BabyNet will work with relevant service coordinators to notify parents immediately by whatever means available of the change in service providers and their right to access dispute resolution procedures. This notice shall be followed by written notice pursuant to written notice procedures in I A 2-4 of these guidelines.
5. The date on which the complaint determination is sent shall be entered on the complaint log.
6. The BabyNet Procedural Safeguards Officer shall provide for the periodic review of the subject of the investigation until corrective actions have been taken and/or a corrective action plan has been fully implemented. If appropriate, on-site follow-up investigation(s) will be performed to ascertain that all appropriate corrective actions have been taken by the subject(s) of the investigation, as part of routine monitoring, approval, licensure or certification process, and/or as determined necessary by the BabyNet Procedural Safeguards Officer. These steps will be entered onto the log.
7. During the pendency of a compliant investigation, all early intervention providers shall ensure that the following services for the child and family are implemented:
 - a. The services provided pursuant to the IFSP currently in effect; or
 - b. The services in any sections of a proposed IFSP that are not in dispute.
8. The written determination of the BabyNet Procedural Safeguards Officer shall be issued no later than 15 calendar days from receipt of the complaint, except in the case of exceptional circumstances justifying an extension of these time limits. All parties will be informed in writing of the extension, the circumstances for the

extension, and the new timelines. Extensions should be given rarely, and only upon a factual showing that “exceptional circumstances” exist justifying such an extension.

9. If a written complaint contains multiple issues, of which one or more is heard at a due process hearing, the state must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not part of the due process action, including any allegations of systemic violations raised in the complaint, must be resolved within the 60-calendar day timeline using the complaint procedures described above.
 - a. Issues raised in a complaint filed under this section that have previously been decided in a hearing involving the same parties-
 - i. May not be reheard or form the basis for a subsequent complaint investigation. If unappealed, the Hearing Officer’s decision is binding; and
 - ii. The BabyNet Procedural Safeguards Officer must inform the complainant to that effect.
 - b. A complaint alleging a public agency(s) or private service provider(s) failure to implement a due process decision must be resolved by the BabyNet Procedural Safeguards Officer.
10. All written communications shall be sent by overnight delivery or mail return receipt requested. The BabyNet Procedural Safeguards Officer shall be responsible for maintaining all records related to the complaint in the complaint file.
11. In the event, the written determination by the BabyNet Procedural Safeguards Officer does not resolve the complaint, the Officer will again offer both informal and formal mediation to resolve the complaint. If the complainant elects to begin formal mediation, this mediation will be in accordance with the procedures in this manual. All mediation must be completed within 30 calendar days from receipt of the complaint and cannot delay the 60-calendar day timeline for resolution of the complaint.
12. If the complainant elects informal means to resolve the complaint, the BabyNet Procedural Safeguards Officer will document all action taken to resolve the complaint. If informal resolution is achieved, the terms of the resolution must be documented and the parties shall sign forms, including, but not limited to, a form signed by the complainant withdrawing the complaint. These forms must be maintained in the record of the complaint. If such informal

mechanisms do not resolve the issue, the BabyNet Procedural Safeguards Officer shall assist the parent in scheduling an impartial due process hearing if desired.

III. FORMAL DISPUTE RESOLUTION

Options for resolving disputes include mediation, impartial hearings and complaints. All requests for complaint investigation and resolution, mediation, and/or due process, are to be filed with the BabyNet Procedural Safeguards Officer consistent with these procedures.

A. MEDIATION PROCEDURES (34 CFR 303.419)

1. Mediation Procedures

A statewide mediation system is available to ensure that parents may voluntarily access a non-adversarial process for the resolution of individual disputes regarding BabyNet including identification, evaluation and assessment, eligibility determination, placement or the provision of appropriate early intervention services.

2. Availability of Mediation

- a. Mediation services for the resolution of individual disputes regarding identification, evaluation and assessment, eligibility determination, placement or the provision of appropriate early intervention services shall be available, at no cost, upon the request of the parent, service coordinator, or service provider. However, mediation participation by the parent is voluntary.
- b. Mediation cannot be used to deny or delay a parent's right to a due process hearing or any other rights afforded under Part C of IDEA. The parent can request mediation alone or simultaneously with a request for a due process hearing and may refuse or withdraw from the mediation process at any time. A parent may also file a request for mediation when filing a complaint.
- c. If mediation is selected by the parent as an option to be used in dispute resolution, BabyNet service provider(s)/agencies must participate in the mediation. If mediation is requested by any party other than the parent, it may only be initiated with the consent of the parent(s).

3. Request For Mediation

A request for mediation shall be in writing, signed and dated by the parent or, with the parent's consent, her/his representative. If a

parent wishes to file a request for mediation, it is the responsibility of the BabyNet Procedural Safeguards Officer to assist the parent, in the parent's native language and/or mode of communication to the maximum extent possible, in preparation of the request in written form. The Procedural Safeguards Officer shall immediately forward the request for mediation and complete file to the DHEC Office of General Counsel so that a qualified and impartial mediator with knowledge of the laws, regulations and procedures related to the provision of early intervention services may be assigned to the case.

4. Responsibility of BabyNet Procedural Safeguards Officer

The BabyNet Procedural Safeguards Officer maintains a log of all mediation requests received. Each mediation request shall be date-stamped immediately upon receipt. The date the mediation request was received and name of the requester are entered into the mediation log. The completion date of each step in the process must be entered in the mediation log. Each mediation is numbered sequentially by year. For example, M: 01-SFY03 would be the first mediation request received in state fiscal year 2003. A file is created containing all the documents related to the mediation.

a. Notice of mediation

Parties to the mediation process shall be sent a copy of such notification, which shall include:

- i. The names, addresses and phone numbers of the parties to participate in the mediation;
- ii. The need for interpretive or translation services, or alternative communication services, if any;
- iii. The nature of the dispute, which has resulted in the request for mediation;
- iv. The obligation of the party(s) representing BabyNet to bring to the mediation a complete copy of the child's early intervention record;
- v. The right of both parties to bring any documentation or information believed relevant to the issues under discussion, and to be accompanied by any person of their choice;
- vi. A statement advising all parties that they are not entitled to reimbursement of legal fees under BabyNet;

- vii. A description of the mediation process, including the non-adversarial nature of the process;
- viii. The voluntary nature of mediation for the parent, including the ability of the parent to refuse or withdraw from the mediation process at any time; and that mediation cannot be used to deny or delay a parent's right to a due process hearing or any other rights afforded under Part C of IDEA, including resolution of a complaint, and;
- ix. The parent's right to request an impartial hearing at any time during the complaint or mediation process.

b. Scheduling the Mediation

- i. The BabyNet Procedural Safeguards Officer shall assist with arrangements for the mediation proceeding.
- ii. The mediation proceedings shall be convened as quickly as possible after receipt of the request for mediation.
- iii. The Mediator shall notify the parties in writing of the date, time and location of the mediation proceedings.
- iv. The BabyNet Procedural Safeguards Officer shall ensure, as needed to the maximum extent possible, the provision of appropriate interpretive, translation or alternative communication services.

5. Responsibility of Mediator

The mediator shall ensure mediation proceedings are conducted in an efficient, objective and timely fashion.

a. Mediator Responsibilities in Mediation Proceedings

- i. The mediator shall maintain the confidentiality of all personally identifiable information as required by state and federal law.
- ii. Prior to the initiation of the mediation proceedings, the mediator shall inform both parties of:
 - a) The parent's right at any time to withdraw from mediation and initiate an impartial hearing; and

- b) The confidential nature of all information related to the request for mediation and mediation proceedings.
- c) The mediator shall conduct the proceedings fairly and impartially, and shall not be bound by formal rules of evidence or proceeding. During the mediation proceedings, the mediator shall:
 - (i) Explain his/her role as a facilitator to assist parents and other parties to reach agreement;
 - (ii) Inform all parties of the confidential nature of all information related to the mediation;
 - (iii) Inform all parties that discussions held during the mediation can not be used as evidence in any subsequent due process hearing or civil action;
 - (iv) Allow each party to present their point of view concerning the disagreement;
 - (v) Engage in focused discussion and problem-solving with all parties; and
 - (vi) Work with all parties to develop the positive rapport, respect and trust needed to work in a collaborative process on behalf of the child.
- d) During the mediation proceedings, the mediator may:
 - (i) Ask questions of any and all parties;
 - (ii) Restate each party's position in an attempt to clarify the underlying issues;
 - (iii) Caucus with each party privately. Such discussions are kept confidential from the other party unless she/he receives permission to reveal the contents of the caucus discussion;
 - (iv) Identify areas of agreement, and narrow areas of disagreement; and

- (v) Suggest compromises based on their knowledge of the law, facts, “best practice,” and positions of the parties.
 - e) Mediation proceedings may not be taped, nor may any party introduce information regarding discussions held during mediation as evidence in any subsequent due process hearings or civil proceeding.
- b. Documentation of Agreement
- i. When mediation has resulted in successful negotiation of a partial or full agreement on areas in dispute between the parties, the mediator shall document the terms of the negotiated agreement in writing and obtain the signatures of both parties on the written agreement before the mediation is adjourned. The written agreement shall be clear, as concise as possible, and specific with regard to agreements reached and responsibility for implementation of agreement.
 - ii. Whenever possible, the mediator shall provide the written agreement in the primary language or mode of the communication of the parent. If the mediator cannot fulfill this responsibility, it shall be the responsibility of the BabyNet Procedural Safeguards Officer to ensure the translation of the written agreement, to the maximum extent possible.
 - iii. The mediator shall forward a copy of such agreement to the BabyNet Procedural Safeguards Officer, who shall ensure that the parties receive a copy of the written agreement within five business days of receipt of the written agreement and document these activities in the mediation log. The service coordinator also receives a copy of the resolution.
- c. Failure to Reach Agreement
- i. When the mediator determines that a negotiated resolution of the issues being mediated is not possible, the mediator shall forward a letter to the BabyNet Procedural Safeguards Officer indicating that no agreement was reached, and requesting the BabyNet Procedural Safeguards Officer to notify the parties that:
 - a) No agreement was reached;

- b) The process is confidential;
- c) Discussions held during the mediation can not be used as evidence in any subsequent due process hearing or civil action; and

6. Responsibilities of the BabyNet Service Coordinator

The service coordinator shall ensure that the terms of the written agreement are incorporated into the IFSP within five business days of receipt of the written agreement.

7. Binding Nature of Mediation Agreement on the Early Intervention System

The mediation agreement is binding on the BabyNet system based on its incorporation into the IFSP.

8. Maintenance of Records

Mediation records shall be maintained by the BabyNet Procedural Safeguards Officer for a period of at least three years.

B. IMPARTIAL HEARING PROCEDURES (34 CFR 303.420- 303.425)

1. Availability of Impartial Hearing System

- a. Impartial due process hearings for the resolution of individual disputes regarding identification, evaluation and assessment, eligibility determination, placement or the provision of appropriate early intervention services are available upon the request of the parent.
- b. The hearing officer appointed to conduct the hearing must be impartial. An impartial person, for the purposes of BabyNet, cannot be an employee of any agency or other entities involved in the provision of early intervention services or care of the child, and do not have a personal or professional interest that would conflict with his or her objectivity in implementing the hearing process. A person who otherwise qualifies as a hearing officer is not an employee of an agency solely because the person is paid by the agency to implement the hearing process.
- c. No person shall serve as a hearing officer in the same matter in which they served as a mediator.

2. Request for Impartial Hearing

A request for an impartial hearing to resolve a complaint must be made in writing and signed and dated by a parent or, with the parent's consent, the parent's representative, and submitted to the BabyNet Procedural Safeguards Officer. The BabyNet Procedural Safeguards Officer shall immediately forward requests for impartial hearings and the complete BabyNet file to the DHEC Office of General Counsel for assignment of an impartial hearing officer.

3. Responsibilities of BabyNet Procedural Safeguards Officer

- a. The BabyNet Procedural Safeguards Officer maintains a log of all requests for a due process hearing. The Procedural Safeguards Office also maintains a file containing all documents related to the complaint and the hearing.
- b. The BabyNet Procedural Safeguards Officer will appoint an impartial hearing officer for each hearing.
- c. Within 5 calendar days from the date of the request for a hearing, the BabyNet Procedural Safeguards Officer will schedule a convenient date, time, and location for the hearing. The BabyNet Procedural Safeguards Officer shall provide all parties with notice of the hearing within 7 calendar days of the request for the hearing. If represented by counsel, a party shall immediately notify the Procedural Safeguards Office of the name, telephone number, and address of counsel so that notice of the hearing may be served on counsel.
- d. Contents of Hearing Notice:
 - i. The date, time, and place of the hearing, which shall be reasonably convenient to the parent(s), and which shall be no later than 20 calendar days from the date of request for a hearing.
 - ii. The procedures for conducting the impartial hearing.
 - iii. Include:
 - a) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention services for children;
 - b) the right to inspect and review their child's early intervention record without unnecessary delay and before the hearing and the right to request

copies of these records. Fees may be charged for copies of records if they do not prevent a parent from exercising their right to inspect and review these records. Fees may not be charged to search for or to retrieve records;

- c) Of the right to have an interpreter or translator to the maximum extent possible, as needed; and
- d) That they are not entitled to reimbursement of fees and expenses for attorneys, witnesses or any individuals accompanying them to the hearing;
- e) That all parties must provide a copy of all documents and the names of witnesses they intend to present at the hearing to opposing parties no later than 5 days prior to the hearing. Families, not represented by counsel, for whom this presents a burden, may contact the BabyNet Procedural Safeguards Officer for assistance;
- f) That the Hearing Officer has the right to prohibit the introduction of any evidence at the hearing that has not been disclosed to the other party at least five calendar days prior to the hearing;
- g) That Parties have the right to obtain one written or electronic verbatim transcription of the hearing at no cost;
- h) That the Hearing Officer will issue a written Order containing findings of fact and law and the decision within 30 calendar days of the receipt of the request for the hearing;
- i) That Parties have the right to make an opening and a closing statement;
- j) That the party bearing the burden of proof, i.e., the complaining party will be the first to present its case;
- k) That each party is responsible for notifying its witnesses of the date, time and place of the hearing;

- l) That any party aggrieved by the Hearing Officer's Order has the right to appeal the decision of the hearing officer to the Commissioner of DHEC and subsequently, if desired, to a South Carolina or federal court of competent jurisdiction;
- m) That the child shall continue to receive early intervention services during the hearing process, unless the parent and public agency otherwise agree. If the hearing involves an application for initial services under Part C of IDEA, the child must receive services that are not in dispute; and
- n) That counsel for either party has the right to review, inspect, and request copies of the child's record.

4. Translation & Interpretation at Impartial Hearings

The BabyNet Procedural Safeguards Officer shall ensure that at all stages of the hearing a qualified interpreter of the deaf and, to the maximum extent possible, an interpreter fluent in the native language of the parents of the child who is a party to the hearing is available, as necessary.

5. Postponement or Continuance of Hearing

- a. If a party needs to postpone a scheduled hearing, the party shall contact the BabyNet Procedural Safeguards Officer. The BabyNet Procedural Safeguards Officer shall forward the request to the hearing officer for a determination of whether there is good cause shown for the granting of a continuance. If the request for postponement is granted, a rescheduled hearing date shall be established, to the maximum extent possible within five days from the date of the postponed hearing. The BabyNet Procedural Safeguards Officer shall notify the parties of the hearing officer's decision, including the new timelines of the hearing process and the new hearing date, time and place.

If either party to the hearing fails to appear at a scheduled hearing, the hearing officer shall attempt to contact the party by phone while the other party remains. If the absent party cannot be reached, the hearing officer may: 1) proceed with the hearing after determining that the absent party had sufficient notice of the proceedings, hear evidence from the party present, and reach a decision; or 2) adjourn the hearing after waiting for one hour from the scheduled starting time

and reschedule the proceeding. **The failure of the complaining party to appear at a scheduled hearing may constitute waiver of the right to a due process hearing.**

If a hearing is rescheduled, the hearing officer must notify the BabyNet Procedural Safeguards Officer. The BabyNet Procedural Safeguards Officer shall notify the parties of the scheduled date, time and place.

6. Conduct of Hearing

The procedures used to conduct the impartial hearing shall provide the parties with a fair and prompt resolution of any dispute.

- a. Representation at the hearing: The parties to the impartial hearing may be represented by legal counsel and individuals with special knowledge or training with respect to children eligible for early intervention services and may be accompanied by other persons of their choice. If counsel does not represent the parent, no other parties may be represented by counsel.
- b. Open or closed hearing: The impartial hearing shall be closed to the public unless the parent requests an open hearing. Upon such request, the hearing officer shall make a determination regarding whether the hearing shall be opened to the public. This determination may consider whether a suitable location for a public hearing is available.
- c. Presentation of evidence and questioning witnesses: The parties to the impartial hearing, and their respective counsel or representative, if any, shall have an opportunity to present evidence and confront, cross-examine, and compel the attendance of witnesses. All witnesses to the hearing are asked to leave the hearing room until they are called to testify by the hearing officer.
- d. Disclosure of evidence: All evidence shall be disclosed to the opposing party(s) and the hearing panel at least five calendar days before the hearing. Any party has the right to prohibit the introduction of any evidence at the proceeding that was not disclosed to the other party(s) at least five calendar days before the proceeding.
 - i. The intent of the five-day timeline is to avoid surprise by either party at the hearing.
 - ii. The hearing officer has discretion to determine the consequences of not meeting the timeline.

The hearing officer may:

- i. Permit the introduction of evidence; or
 - ii. Prohibit the introduction of evidence; or
 - iii. Allow the rescheduling of the hearing so that the timeline can be met.
- e. Swearing-in of witnesses: Each witness shall be sworn or given an affirmation by the hearing officer.
- f. Rules of evidence: The hearing officer may consider all relevant evidence, including hearsay, and shall include as part of the record all records, documents, and memoranda submitted into evidence. The formal rules of evidence do not apply; however, clearly irrelevant, unfairly prejudicial, or unreliable evidence shall not be admitted.
- g. Stipulation: The parties may enter into a stipulation to resolve the facts or law in dispute at any time prior to the issuance of a decision by the impartial hearing officer.
 - i. The parties shall inform the hearing officer of such stipulation.
 - ii. Upon such notice, the hearing officer shall terminate the proceedings and provide notice to the BabyNet Procedural Safeguards Officer of the termination.
- h. Written decision: Upon conclusion of the proceedings, the hearing officer shall render a written decision within 30 calendar days of the request for the hearing, which shall include:
 - i. Findings of fact and conclusions of law;
 - ii. A determination regarding the matters in dispute;
 - iii. An order of implementation of the determination; and
 - iv. The right to appeal the decision to the Commissioner of DHEC a state or federal court of competent jurisdiction.

7. Hearing Officer Duties

The hearing officer shall conduct the hearing in a fair and impartial manner and:

- a. Rule upon requests by parties to the hearing, including all requests for postponement or continuance, which shall not be granted except for good cause shown.
- b. Administer oaths and affirmations
- c. Limit the number of times any witness may testify, repetitious examination or cross-examination, and the amount of corroborative or duplicative testimony, taking into consideration the experience of the parties and/or their representation by counsel;
- d. Hear arguments on facts and/or law;
- e. Request that the parties make opening and/or closing statements. These statements are brief summaries of the issues in the case and the desired outcome from the perspective of the parties. Neither opening nor closing statements are considered evidence by the hearing panel;
- f. Provide the parties an opportunity to meet prior to the hearing conference to consider matters which may simplify the issue, facilitate reaching a negotiated settlement, or expedite the hearing, and which may ensure that the parties understand the procedures governing the hearing;
- g. Insure that a written or electronic verbatim transcription of the proceedings is created; and
- h. Perform such other acts as may be necessary for the maintenance of order and efficient conduct of the impartial hearing, unless otherwise prohibited by law or regulation.
- i. In matters alleging a procedural violation, a hearing officer may find that a child or a child's family did not receive appropriate early intervention services only if the procedural inadequacies:
 - i. Impeded the child and family's right to appropriate early intervention services;
 - ii. Significantly impeded the parent's opportunity to participate in the decision-making process regarding the provision of early intervention to the child and the child's family, or;

- iii. Caused a deprivation of an early intervention benefit.

Finality of hearing order: If no appeal is received, the decision of the hearing officer shall be final.

- j. Dissemination of written decision: A copy of the written decision is provided to the BabyNet Procedural Safeguards Officer who shall mail the written decision to all parties to the hearing. A copy of the written decision shall also be sent to the service coordinator to be placed in the child's BabyNet record.
- k. Modification of IFSP: The service coordinator shall modify the Individualized Family Service Plan no later than five business days after receipt of the written decision.
- l. Maintenance of records and decisions: The records and decisions by hearing officers shall be maintained by the Monitoring/Procedurals Safeguards Coordinator for at least three years plus the state statute of limitations.

8. Appeals

Any party aggrieved by the Hearing Officer's Order has the right to file an appeal of the decision to the Commissioner for DHEC. If no appeal is received, the decision will become final 10 days from the date of the Order. All appeals must be postmarked within ten (10) days of the Hearing Officer's decision.

When a timely appeal is received, the Commissioner for DHEC will review the record, written arguments of the parties, and the Hearing Officer's decision/Order. The Commissioner will then issue the final Agency decision within 10 working days of receipt of the appeal. If no appeal of this decision is filed, the Commissioner's decision will become final after 30 days. A party aggrieved by the final Agency decision may file an action within 30 days of the decision in state or federal court pursuant to Section 639 (a)(1) of the IDEA.

C. EVALUATION OF DISPUTE RESOLUTIONS

1. Analyses of Dispute Resolutions

BabyNet

- a. The BabyNet Procedural Safeguards Officer shall provide for analyses of impartial hearing decisions, complaint investigations, and mediation procedures, and report annually

to the State Carolina Interagency Coordinating Council (SC-ICC).

- b. Any analysis shall protect the confidentiality of the parents involved consistent with the confidentiality provisions of Part C of IDEA.
- c. The BabyNet Procedural Safeguards Officer shall on a periodic basis provide for the formal evaluation of consumers' experience and satisfaction with dispute resolution procedures, and provide the results of such evaluation to the SC-ICC.
- d. The BabyNet Procedural Safeguards Officer and the Part C Coordinator shall use the results of such evaluations to guide any necessary improvements in dispute resolution procedures.

2. Statistical Reports

- a. Yearly statistical reports will be compiled by the BabyNet Procedural Safeguards Officer and distributed to the State Interagency Coordinating Council. Such reports will include information in the aggregate that does not disclose information on the identity of the child or family.
- b. The reports will contain at a minimum the number of requests for resolution of a complaint, for mediation or for a due process hearing which were received, and any identifiable trends regarding types of disputes or information identifying need for additional resources, professional development, training or other systematic action.
- c. Annual statistical information will be compiled by the BabyNet Procedural Safeguards Officer and incorporated into the Annual Part C of IDEA Performance Report.

APPENDIX A

Mediation Timelines and Activities

Day 1 Mediation request received by Procedural Safeguards Officer (PSO); date stamped; logged in; file created.

Day 3 Within two working days of receipt of request for mediation by PSO, mediator is appointed and parties sent copies of rights, procedures, and notice of mediator appointment.

Day 10 Mediation session scheduled by PSO and parties notified of date, time and location.

Arrangements made for interpreter, translator or alternative communication services by PSO, if applicable.

Mediator notifies parties of responsibilities.

□ ***IF MEDIATION IS REQUESTED ALONE AND NOT AS A PART OF A HEARING OR COMPLAINT, GO TO DAY 30.***

Day 15 Mediation completed if requested as part of impartial hearing or complaint investigation.

If no agreement reached:

- ~ Mediator develops written agreement, obtains signatures of parties, and ends copy of agreement to PSO.
- ~ Written agreement to be in primary language or mode of communication of parent. PSO is responsible for translation of agreement, if applicable, to the maximum extent possible.

If no agreement reached:

- ~ Mediator sends letter to PSO indicating that no agreement could be reached.
- ~ PSO notifies parties that no agreement could be reached, confidentiality pledge is still in effect, parents have right to a hearing or to file a complaint and procedures for requesting a hearing or filing a complaint.

Day 20 Within 5 working days of receipt of mediation agreement, PSO sends copy to all parties BabyNet staff in their district/region.

Day 25 Within 5 working days of receipt of written agreement, service coordinator incorporates terms of agreement in IFSP.

□ ***STOP HERE IF MEDIATION WAS PART OF HEARING OR COMPLAINT INVESTIGATION.***

□ ***CONTINUE IF MEDIATION WAS REQUESTED ALONE***

Day 30 Mediation completed within 30 calendar days when it is requested alone and not as part of a hearing or complaint investigation.

If agreement reached:

- ~ Mediator develops written agreement, obtains signatures of parties, and sends copy of agreement to PSO.
- ~ Written agreement to be in primary language or mode of communication of parent. PSO is responsible for translation of agreement, if applicable, to the maximum extent possible.

If no agreement reached:

- ~ Mediator sends letter to PSO indicating that no agreement could be reached.
- ~ PSO notifies parties that no agreement could be reached, confidentiality pledge is still in effect, parents have the right to a hearing or to file a complaint and procedures for requesting a hearing or filing a complaint.

Day 35 Within 5 working days of receipt of mediation agreement, PSO sends copy to all parties and BabyNet staff in their district/region.

Day 40 Within 5 working days of receipt of written agreement, service coordinator incorporates terms of agreement in IFSP.

APPENDIX B

Procedural Safeguards Log for Mediation Requests

Name: _____ Case Number: M: _____ SFY _____

Date Request Received: _____ Date Agreement Reached: _____

Respondent (s): _____

Local District/Region Staff _____

Issue (s): _____

Follow-up/Documentation:

Steps: _____

Date: _____ Verification Signature: _____

Comments: _____

APPENDIX C

Individual Case Mediation Log

Name: _____ Case Number: M: _____ SFY _____

Child's Name: _____ DOB: _____

Address: _____

Phone: _____

Respondents(s): _____

This form should be attached to the inside left cover of the individual mediation file and dates entered as steps are completed. If an item is not applicable, enter NA on the form.

DATE	EVENT
	Form requested
	Form sent by PSO
	Request for mediation received by PSO
	Mediator appointed by PSO
	Parties notified of mediator, rights, and procedures by PSO
	Parties notified of date, time, and location of mediation by PSO
	Mediation session completed
	Letter sent by PSO to all parties when no agreement reached
	Hearing or complaint investigation request received by PSO, if applicable
	Copy of mediation agreement mailed to all parties including staff from the district or region.

Comment (s): _____

APPENDIX D

Hearing Timelines and Activities

- Day 1** Hearing request received by PSO; date stamped, logged in; file created
- Day 5** Within five calendar days of receipt of request for hearing, PSO appoints hearing panel and sends notice of hearing to all parties including counsel if applicable.
- Day 10** PSO rules on request to disqualify member of hearing panel if applicable.
- PSO initiates mediation process of requested by parent.
- Within 10 calendar days of hearing, evidence submitted to PSO for copying and dissemination to all parties.
- Names of witnesses to be compelled submitted to PSO for action by hearing panel if applicable.
- Parent notifies PSO if intent to be represented by counsel if applicable.
- Any requests for postponement submitted to PSO and forwarded to hearing panel for decision. If granted, PSO reschedules hearing and logs in new date for final decision.
- Day 15** Within 5 calendar days of hearing, evidence not submitted to PSO must be provided to other party(s).
- Respondents(s) notifies parent of intent to be represented by counsel if applicable.
- Day 20** If mediation occurred and successfully resolved the dispute, hearing panel is notified of agreement and hearing is canceled by PSO.
- Within 20 calendar days of receipt of request for hearing, hearing is conducted.
- If any party fails to appear at the hearing, hearing panel attempts to contact party and adjourns after one hour if party does not appear. PSO reschedules hearing consistent with procedures.
- Day 30** Within 30 calendar days of receipt of request for hearing, a written decision is rendered and mailed to all parties by the PSO including appropriate service coordinator. This decision is binding on all parties.

- Day 35** No later than 5 working days after receipt of the written decision, the service coordinator shall modify the IFSP consistent with the hearing decision.
- Day 45** Within 15 working days of the hearing decision, a written or electronic verbatim transcription of the proceedings is available to all parties.
- Ongoing** PSO follows-up on implementation of the decision. Actions taken by PSO are documented in file.

APPENDIX E

Procedural Safeguards Log for Impartial Hearings

Name: _____ Case Number: _____ SFY _____

Date Request Received: _____ Date Decision Rendered: _____

Respondent (s): _____

District/Region Staff: _____

Issue (s): _____

Follow-up/Documentation:

Steps: _____

Date: _____ Verification Signature: _____

Comments: _____

APPENDIX F

Individual Case Complaint Investigation Log

Complainant: _____ Case Number: _____ SFY _____
Child's Name: _____ DOB: _____
Address: _____
Phone: _____

Respondents(s) (s): _____

This form should be attached to the inside left cover of the individual mediation file and dates entered as steps are completed. If an item is not applicable, enter NA on the form.

DATE	EVENT
	Form requested
	Form sent by PSO
	Request for hearing received by PSO
	Hearing Panel appointed by PSO
	Date of hearing
	Notice of hearing sent by PSO to all parties and hearing panel
	PSO ruled on request to disqualify member of the hearing panel if applicable
	Request for mediation received by PSO, if applicable. PSO completes mediation activities for Day 1- Day 25
	Evidence submitted to PSO for copying and dissemination
	Evidence disseminated to all parties and hearing panel
	The names of witnesses to be compelled submitted to PSO, if applicable
	PSO notifies hearing panel of names and contact information of witnesses to be compelled
	PSO notified of parental intent to be represented by counsel, if applicable
	PSO Notified respondent(S) of parental intent to be represented by counsel, if applicable.
	Mediation completed. If successful, PSO notifies panel and closes case
	Request for rescheduling of hearing received by PSO, if applicable
	PSO rescheduled hearing, if applicable
	Request for continuance received by PSO, if applicable
	PSO scheduled hearing continuance, if applicable
	Hearing(s) conducted by panel
	PSO rescheduled hearing for no show, if applicable
	Rescheduled hearing held, if applicable
	Hearing decision mailed to all parties by PSO
	Verbatim hearing record available
	Verbatim hearing record sent to parties if requested

Comment (s): _____

APPENDIX G

Complaint Investigation Timelines and Activities

- Day 1** Complaint received by PSO; date stamped, logged in; file created
- Day 5** Within five working days of receipt of complaint, PSO determines whether issue is Part C.
- PSO determines if complaint is also the subject of a current due process hearing. If so, PSO follows procedures for this situation, setting aside any part of complaint being addressed in due process and investigates remaining issues, if any.
- PSO determines if the issue has already been resolved in a due process hearing involving the same parties. Hearing decision is binding and PSO informs complainant if necessary.
- PSO may resolve any complaint that alleges a respondent(s) has failed to implement a due process hearing decision.
- Day 7** Within 2 working days of determining the complaint is not a Part C matter, PSO informs all parties, if applicable;
- or
- Within 2 working days of determination that complaint is a Part C matter, PSO notifies complainant and sends copy of complaint procedures.
- PSO sends copy of notice, procedures and complaint to respondent(s) and relevant BABYNET STAF IN THEIR DISTRICT/REGION.
- PSO determines need for onsite investigation.
- PSO consults with complainant offering informal and formal mediation.
- If complainant agrees to pursue informal mediation, PSO puts hold on complaint. PSO ensures informal mediation proceeds and collects and documents to support implementation of this process, filing them in complainant record.
- Day 14** PSO documents receipt of additional written or verbal information from parties in response to allegations in complaint if applicable.
- Day 30** If formal mediation resolved the issues, PSO files signed agreement in complainant record. Case is closed.
- If informal resolution is achieved, PSO files signed agreement in complainant record. Case is closed.

If no informal resolution is reached, PSO notifies complainant of right to reinstate complaint.

If complaint is reinstated, PSO enters new complaint initiation date in complaint log.

PSO conducts onsite investigation if necessary.

Day 60 Within 60 calendar days from the date of receipt of complaint, PSO issues written decision unless exceptional circumstances exist. PSO documents reasons for any delay in rendering decision in file and notifies parties in writing of circumstances and new timeline.

Copies of decision sent to all parties and relevant district/region staff.

PSO determines need for plan of action including technical assistance, negotiations and corrective actions.

Day 65 If applicable, service coordinator modifies IFSP, consistent with findings, no later than 5 working days after receipt of written decision.

Ongoing PSO follows-up on corrective actions including onsite investigations if necessary. Actions taken by PSO are documented in the file.

APPENDIX H

Procedural Safeguards Log for Complaint Investigations

Complainant: _____ Case Number: C: _____ SFY _____

Date Complaint Received: _____ Date Complaint Resolved _____

Respondent (s): _____

District/Region Staff: _____

Issue (s): _____

Follow-up/Documentation:

Steps: _____

Date: _____ Verification Signature: _____

Comments: _____

APPENDIX I

Individual Case Complaint Investigation Log

Complainant: _____ Case Number: C: _____ SFY _____
 Child's Name: _____ DOB: _____
 Address: _____ Phone: _____

Respondents(s) (s): _____

This form should be attached to the inside left cover of the individual mediation file and dates entered as steps are completed. If an item is not applicable, enter NA on the form.

DATE	EVENT
	Form requested
	Form sent by PSO
	Complaint received by PSO
	PSO determines whether issue is Part C or not
	PSO determines complaint is also the subject of a current hearing if applicable. If so, PSO follows procedures for this situation.
	PSO notifies all parties that issue is not Part C if applicable
	PSO notifies complainant issue is Part C; sends copy of complaint procedure and sends copy of complaint to respondent(s) and relevant region/district staff.
	PSO consults with complainant and offers informal and formal mediation.
	Complainant agreed to use formal mediation if applicable. PSO follows mediation activities from Day 1 –Day 25.
	PSO put hold on complaint when complainant agrees to informal mediation if applicable.
	PSO receives additional written or verbal information concerning complaint if applicable.
	Formal mediation resolved issues. PSO files signed agreement in complainant record. Case is closed.
	Informal mediation resolved issues. PSO files signed agreement in complainant record. Case is closed.
	PSO notified complainant of right to reinstate complaint when no agreement is reached through informal means if applicable.
	Complaint is reinstated if applicable.
	PSO conducted onsite investigation, if necessary.
	PSO notified parties of reasons, new timelines in case of exceptional circumstances if applicable
	PSO issued written decision and sent copies to relevant district/region staff. coordinator.
	PSO received corrective action plan from respondents (s) if applicable.
	PSO provided TA to respondent(s) if applicable. PSO completed follow-up on corrective actions including onsite activities if applicable.

Comment (s): _____

